

MEMO ENDORSED



George Latimer
County Executive

John M. Nonna
County Attorney

September 5, 2024

VIA ECF

Hon. Nelson S. Román
U.S. District Judge, S.D.N.Y.
Briant Federal Courthouse, Courtroom 218
300 Quarropas Street
White Plains, New York 10601-4150

Re: *Selwyn Days v. County of Westchester, et al.*, 18-cv-11538 (NSR) (AEK)

Dear Judge Román:

The County of Westchester and Christopher Calabrese (hereinafter, “Defendants”) write to request that certain exhibits pertaining to Defendants’ summary judgment motion be filed under seal.

Although “[t]he common law right of public access to judicial documents is firmly rooted in our nation’s history,” this right is not absolute, and courts “must balance competing considerations against” the presumption of access. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006) (internal quotation marks omitted); *see also Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 599 (1978) (“[T]he decision as to access is one best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case.”). The Second Circuit has held that “[d]ocuments may be sealed if specific, on the record findings are made demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” *Lugosch*, 435 F.3d at 120 (internal quotation marks omitted).

Here, Defendants respectfully request permission to file Defendants’ summary judgment motion Exhibits A (Eastchester Police Dep’t Suppl. Compl. Reps., TOE-000296 through TOE-003544), I (Notes of Mayhew Interview, TOE-003572 through TOE-003576), and S (Felony Compl., TOE-003540) under seal, pursuant to paragraph 6 the so-ordered Agreed Protective Order/Confidentiality Agreement. *See* ECF No. 57 (hereinafter, “Protective Order”).

While the Town of Eastchester (“Eastchester”) is no longer a party to this action, the above-referenced documents were produced by Eastchester as part of this case, and the underlying bases for the Protective Order remain. Eastchester has therefore requested that the above-mentioned exhibits be filed under seal consistent with the Protective Order, given the content of these files, because the double homicide remains an unsolved case in light of Plaintiff’s acquittal following his fifth jury trial in the criminal case. The Westchester Defendants therefore make this application consistent with the Protective Order and Eastchester’s request.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 09/09/2024

We thank the Court for its consideration of this matter.

Respectfully submitted,

Shawna C. MacLeod

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Counsel for Westchester Defendants

cc: All counsel of record (via ECF)

Defendants' request is GRANTED. Defendants may file on ECF the unredacted versions of Exhibits A, I, and S under seal accessible only to the Court and parties to the case. The Clerk of Court is directed to terminate the motion at ECF No. 289.

**Dated: September 9, 2024
White Plains, NY**

SO ORDERED:



HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE